

## **High School Lesson 2**

### The Privileges of Citizenship: *Habeas Corpus*

#### **Materials needed**

*\*Indicates materials included at the end of the lesson.*

- For the teacher:
  - Completed survey posters from Lesson 1, if available
  - Lesson 2 Vocabulary Worksheet\* and Taney excerpt from *Ex Parte Merryman*\* (copy on the back so students get both on one page)
  - Quote #2\*
  - An LCD projector, overhead projector, or chalk board, highlighters
- For the students:
  - Lesson 2 Vocabulary Worksheet\* and Taney excerpt from *Ex Parte Merryman*\*
  - Pen, pencil, paper

#### **Introductory Questions for Discussion**

1. What role does the Constitution play in defining the national government's power and the rights of U.S. citizens?
2. If Congress is not in session, should the president be able to expand his or her constitutional role in order to issue an executive order intended to meet the needs of a national emergency?
3. Does the president's role as Commander-in-Chief give him or her special powers in times of war? Powers that override normal constitutional restraints on the presidency?

*If available, display the posters with the color-dotted results from Lesson #1. Direct the students' attention to the first item: The President of the United States has the power to override the Constitution in times of national crisis.*

*Ask students to define and give examples of a national crisis. Discuss the students' answers as represented on the poster, if available. Based on this class discussion, make a list of "pros" and "cons" on the board regarding whether or not a president should be allowed to override the Constitution in times of war or during a national crisis.*

#### **Small Group Activity (2-4 students)**

- Divide the class into small groups.
- Pass out the Lesson 2 Vocabulary Worksheet\* and the Taney excerpt from *Ex Parte Merryman*.\* Give students ten to fifteen minutes to complete the activities in their groups.
- Call on individual students to explain martial law and *habeas corpus* in their own words. Discuss for clarification.
- (Optional) Direct the students' attention to survey question #3 (*Speaking out against the government, especially in times of war, is detrimental to society.*) on the poster board, if available. Ask each group to recall its original answer and determine whether or not they wish to stand by their original answer.
- Display the following quote (Quote 2):\* "...The only power, therefore, which the president possesses, where the "life, liberty or property" of a private citizen is concerned, is the power and duty prescribed in the third section of the second article, which requires 'that he shall take

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care that the laws shall be faithfully executed. To Lincoln, it was more important to risk a temporary violation of the Constitution than allow the nation to be permanently destroyed.”

- Have students write reflections about what this quote means in regard to Lincoln’s suspension of *habeas corpus*.

### **Exit Activity**

- Compare the answers to the three introductory questions to the answers to those same questions that students gave after reading the excerpt from Chief Justice Taney’s ruling in *Ex Parte Merryman*.

### **Extending the Lesson**

- Current Events—*Habeas Corpus* issues in the news. Copy Fact Sheet #2.\* Gather articles from books, newspapers, magazines, or the Internet that discuss *habeas corpus* issues. Display the web pages or pass out the current events articles. With longer texts, use the jigsaw technique to assign specific sections of the reading to different groups (full explanation of the jigsaw reading strategy at end of unit). Discuss the current administration’s position as well as opposing views regarding detainment of suspected terrorists. Close with a class vote regarding whether or not detainees, for example those in Guantanamo Bay, have *habeas corpus* rights, and, if so, whether or not those rights have been violated.
- Quick Write—In 1759, Benjamin Franklin said, “They that can give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety.” Write a paragraph that answers the following questions:
  - What do you think Franklin meant by this statement?
  - How does it relate to today’s lesson?
  - Do you agree or disagree with Franklin? Why?